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09/438,437	11/12/1999	JEFFREY MARK ACHTERMANN	AT9-99-274	9316

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EXAMINER

JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/438,437

Applicant(s)

ACHTERMANN ET AL.

Examiner

LaShonda T. Jacobs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Response to Amendment*

This Office Action is in response to Applicant's amendment filed on February 28, 2003. Claims 1-22 are presented for further examination.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 5, 7, 9, 11, 12, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bereiter.

As per claim 1, Bereiter discloses a data processing system for bulk data transfer comprising:

- a source data processing system for distributing data to one or more target data processing systems (see Fig. 1, col. 2, lines 60-65, and col. 4, lines 17-21);
- one or more fan-out nodes for transferring said data between said source system and each of said one or more target data processing systems and transferring result information between said one or more target data processing systems (see Fig. 1, and col. 6, lines 32-41) and a pre-selected set of one or more data processing systems for managing data distributions (col. 4, lines 6-21).

As per claim 5, Bereiter discloses:

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- wherein source data processing system distributes said data in response to a request from at least one said target data processing systems (col. 4, lines 32-41).

As per claims 9 and 16, Bereiter discloses:

- transferring said data via a first set of one or more fan-out nodes to one or more endpoints systems (col. 6, lines 32-41); and
- transferring results information via a second set of said one or more fan-out nodes from said one or more endpoints to a pre-selected set of one of more data processing systems for managing data distributions, said results information generated in response to said step of transferring said data (col. 4, lines 6-21, col. 6, lines 32-41, col. 8, lines 48-52).

As per claims 7, 12, and 19, Bereiter discloses:

- a list of target data processing systems to receive the data (col. 4, lines 32-36);
- an identifier of a method by which the target machines will receive and process data (col. 6, lines 55-63, col. 7, lines 32-38 and col. 8, lines 2-6); and
- an identifier of a notification method by which said result information from each endpoint system will receive by said pre-selected set of one of more data processing systems for managing data distributions (at least implicitly) (col. 8, lines 3-18).

As per claims 11 and 18, Breiter discloses:

- wherein the step of transferring said data is performed in response to a request received from an application on at least one said plurality of endpoints (col. 7, lines 30-38).

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 6, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of Fujino et al. (hereinafter, "Fujino", 6,085,222).

As per claims 2, 6, 10, and 17, although Bereiter shows substantial features of the claim invention (discussed above), it fails to disclose:

- wherein each said of one or more fan-out nodes is operable for caching at least a portion of a data distribution and at least a portion of said result information.

However, the use and advantages for caching data is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Fujino (col. 6, lines 4-11).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to modify Bereiter to include a caching function within the managing node in order to cache data and return results information improving the performance of the system.

5. Claim 3, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of Nemirovsky et al. (hereinafter, "Nemirovsky", 6,477,562).

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As per claim 3, although Bereiter shows substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- wherein a data distribution has a pre-selected priority, said pre-selected priority operable for determining an availability of resources.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- wherein a data distribution has a pre-selected priority, said pre-selected priority operable for determining an availability of resources (at least implicitly) (col. 5, lines 61-67 and col. 6, lines 1-2).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate a priority record in Bereiter's system issuing priority to data in order to give priority to the resources.

As per claims 14 and 21, although Bereiter show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- determining an availability of a network connection for said transferring results information in response to said one said selected pre-selected set priority values.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- determining an availability of a network connection for said step of transferring said results information in response to said one of said pre-selected set of priority values (at least implicitly) (col. 5, lines col. 6, lines 2-16).

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Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the step of determining the availability of network connection for transferring results information in response to said one of said pre-selected set of priority values in Bereiter's system allowing the network to process responses in a timely and efficient manner.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of Minear et al. (hereinafter, "Minear", 5,983,350).

As per claim 4, Bereiter discloses:

- receiving said data from said source data processing system by a first fan-out node (col. 6, lines 32-41);

However, Bereiter fails to disclose:

- wherein said one of more fan-out nodes comprises a plurality of fan-out nodes, and wherein said transferring of said data comprises:
- sending said data to a second fan-out node; and
- sending said data from said second fan-out node to one or more said target data processing systems.

Minear discloses a system and method for regulating the flow of messages through a firewall comprising:

- wherein said one of more fan-out nodes comprises a plurality of fan-out nodes (see Fig.1)
- sending said data to a second fan-out node (col. 1, lines 51-54); and

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- sending said data from said second fan-out node to one or more said target data processing systems (col. 1, lines 54-56).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate a second gateway in Bereiter's system allowing data to be quickly accessed by the end user or host.

7. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of Chang et al (hereinafter, "Chang", 5,367,643).

As per claim 8, although Bereiter shows substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- wherein said request is assigned a pre-selected distribution priority and said request is enqueued in accordance with said pre-selected distribution priority.

However, Chang discloses a generic adapter manager that organizes packets into queues comprising:

- wherein said request is assigned a pre-selected distribution priority and said request is enqueued in accordance with said pre-selected distribution priority (col. 5, lines 10-25, lines 33-36, lines 58-64, and col. 19, lines 21-33).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the step of managing data distributions enqueues in Bereiter's system allowing requests to be removed in the same order they were entered.



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8. Claims 13, 15, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of Fujino and in further view of Nemirovsky.

As per claims 13 and 20, although Bereiter in view of Fujino show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- assigning one of pre-selected set of priority values to each data distribution; and
- determining an availability of a network connection for said step of transferring said data in response to said one of said pre-selected set of priority values.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- assigning one of pre-selected set of priority values to each data distribution (col. 5, lines 61-63); and
- determining an availability of a network connection for said step of transferring said data in response to said one of said pre-selected set of priority values (at least implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the steps assigning one pre-selected set of priority values to each data distribution and determining the availability of network connection to transfer data in response to set of priority values in Bereiter's system allowing data to be process in a timely and efficient manner according to their priority value.

As per claims 15 and 22, although Bereiter in view of Fujino show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- assigning a distribution lifetime value to each data distribution; and

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- aborting said step of transferring said data in response to an unavailability of said connection for a time interval corresponding to said distribution lifetime.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- assigning a distribution lifetime value to each data distribution (at least implicitly) (col. 7, lines 17-25); and
- aborting said step of transferring said data in response to an unavailability of said connection for a time interval corresponding to said distribution lifetime (at least implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the steps assigning a distribution lifetime value to the data and aborting the transfer of data in Bereiter's system allowing data to be deleted when time period has expired.

### *Response to Arguments*

9. Applicant's arguments filed February 28, 2003 have been fully considered but they are not persuasive.

In request for reconsideration filed on February 28, 2003, the following factual arguments are noted:

- a. Regarding claim 1, the teachings in Bereiter by their express terms do not disclose a source data processing system for distributing data to one or more target data processing systems.

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b. Bereiter expressly discloses that each endpoint machines includes a client component, which is a low cost low maintenance application that is dataless in the sense that the system management data is not cached or stored in a persistent manner on the client.

c. Regarding claim 5, the teachings in Bereiter by their express terms do disclose a source data processing system distributing data in response to a request from at least one target data processing system.

d. Regarding claims 9 and 16, the teachings in Bereiter by their express terms does disclose transferring data, and transferring results information via the second set of the one or more fan-out nodes in response to the step of transferring the data.

In considering (a), (c)-(d), Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In considering (b), Examiner disagrees with Applicant's argument. The method of caching is well known in the art and would have been an obvious modification to Bereiter to include a caching function to cache the data within the endpoints.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 703-305-7494.

The examiner can normally be reached on 8:30 AM - 5:00 PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

LaShonda T. Jacobs  
Examiner  
Art Unit 2157

ltj  
May 5, 2003

  
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